FILED
MAR 2 1973
MICHAEL RODAK, JR., CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1972

NO. 72-1116

ALINE BEATRICE McCLOUD,
Petitioner

vs.

ELDRIDGE STANLEY BRANCH, ET AL.,
Respondents

RESPONSE TO PETITION FOR A WRIT OF CERTIORARI

JOHN L. HILL
Attorney General of Texas
JOHN M. BARRON
First Assistant
LARRY F. YORK
Executive Assistant
J. C. DAVIS
Assistant Attorney General
JACK SPARKS
Assistant Attorney General
Box 12548, Capitol Station
Austin, Texas 78711
Attorneys for Respondents

PETITION NOT PRINTED
REPLY BRIEF NOT PRINTED

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1972

NO. 72-1116

ALINE BEATRICE McCLOUD,
Petitioner

vs.

ELDRIDGE STANLEY BRANCH, ET AL.,
Respondents

RESPONSE TO PETITION FOR A WRIT OF CERTIORARI

NOW COME Texas Southern University, the School of Law at Texas Southern University, the Board of Regents for Texas Southern University, to wit: Marvin T. Griffin, Chairman, George L. Allen, Ralph O'Connor, Andrew L. Jefferson, M. J. Anderson, T. D. Armstrong, R. D. Douglas, J. Carroll Chadwick and Wells Stewart, Granville M. Sawyer, President of Texas Southern University, Otis H. King, Dean of the School of Law at Texas Southern University, Professor Eugene Harrington, Professor Earl Carl, Professor Kenneth Tollett, and any other Defendant in this cause who is employed by or represents Texas South-

ern University, Appellees-Respondents, and respectfully show unto the Court the following:

Both the United States District Court for the Southern District of Texas, Houston Division, and the United States Court of Appeals for the Fifth Circuit dismissed this case on the grounds that Petitioner's alleged cause of action was frivolous and that no substantial federal question was stated in her Complaint. A review of Petitioner's Complaint in this cause (containing 322 legal size pages) and her voluminous Petition for a Writ of Certiorari reveal that Petitioner has not been deprived of any of her constitutional rights, that her alleged cause of action was frivolous, that no substantial federal question was stated in her Complaint, and that this case was properly dismissed by the lower courts.

The grounds for dismissal of this case are set out in the Motion to Dismiss or for a Summary Judgment filed by these Appellees-Respondents in said United States Court for the Southern District of Texas in Civil Action No. 72-H-537, styled Aline Beatrice McCloud vs. Eldridge Stanley Branch, et al.

The Petition for a Writ of Certiorari in this case should be denied.

Respectfully submitted,

JOHN L. HILL
Attorney General of Texas

JOHN M. BARRON
First Assistant

LARRY F. YORK
Executive Assistant

J. C. DAVIS
Assistant Attorney General

JACK SPARKS
Assistant Attorney General
Box 12548, Capitol Station
Austin, Texas 78711

CERTIFICATE OF SERVICE

I, Jack Sparks, Assistant Attorney General of Texas, am a member of the Bar of the Supreme Court of the United States, and I do hereby certify that three copies of the foregoing Response have been forwarded by U. S. Mail, postage prepaid, to Petitioner Aline Beatrice McCloud, 3420 Crawford Street, Houston, Texas 77004.

JACK SPARKS

NO. 72-1116

IN THE

Supreme Court of the United States

OCTOBER TERM, 1972

ALINE BEATRICE McCLOUD, *Petitioner*

v.

ELDRIGE STANLEY BRANCH, ET AL, *Respondents*

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Fifth Circuit

MEMORANDUM BRIEF IN OPPOSITION FOR THE DEFENDANTS, B. L. CALLIES, A. H. VOGT, G. M. STEVENS, and JULES BOHNN

The jurisdictional statement filed in the application herein fails to properly state the nature of this proceeding and the question presented for appeal. As such, the Petition for a Writ of Certiorari clearly fails to comply with Rule 15 of the Rules of the Supreme Court of the United States.

Petitioner herein has filed this and a number of other lawsuits against these Defendants and many of the other Defendants named herein, alleging violations of some or all of the Civil Rights Acts of the United States, because of an alleged conspiracy against her of enormous proportions, including the District Court Judges who have dismissed some of her many cases. In each case, the Petitioner has proceeded *pro se* or sought to proceed *in forma pauperis.*

In dismissing the instant case, the District Court Judge determined that the Complaint was frivolous and that a substantial Federal question was lacking.

The Complaint filed in this case (styled a "Petition") consists of some 322 pages of vague, incoherent and conclusionary allegations, the substance of which made it patently impossible for Defendants to frame responsive answers.

The Complaint ("Petition") prays for damages in the amount of Two Billion Five Hundred Million Dollars ($2,500,000,000). The damages sought in the other "Petitions" filed in the other actions seek recoveries in the trillions of dollars, and are equally vague, incoherent and conclusionary.

Respondents would submit that the District Courts have the power to dismiss an action that is frivolous when same clearly appears from the face of the pleadings. *Fletcher v. Young,* 222 F.2d 222 (4th Cir. 1955) *cert. denied,* 76 S.Ct. 201, 350 U.S. 916, 100 L.Ed. 802 (1955).

These Respondents would submit that while Congress did intend to extend to poor and meritorious suitors the

privilege of having their cases handled without the ordinary burdens of litigation by allowing them to proceed *in forma pauperis,* at the same time there is a clear intention to safeguard members of the public against abuses by people who are seeking to use the Courts for vexatious and frivolous legal proceedings.

> "While it is the recognized duty of the Court to be alert to the protection of indigents in their lawful rights, this does not mean that it must open its forum to obviously frivolous and dubious claims under whatever guise they may be presented." *Spears v. United States,* 266 F. Supp. 22 (W. Va., 1967); at 26.

It has long been held that frivolous and fruitless litigation should be ceased when the fact becomes apparent. *Kinney v. Plymouth Rock Squab Co.,* 35 S.Ct. 236, 236 U.S. 43, 59 L.Ed. 457 (1915).

The Petition for Writ of Certiorari should be denied.

Respectfully submitted,

ANDREWS, KURTH, CAMPBELL & JONES

By Hugh M. Ray

HUGH M. RAY
2500 Exxon Building
Houston, Texas 77002
713-224-6616

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this the 9 day of March, 1973, he served a true and correct copy of

the foregoing Memorandum Brief in Opposition for the Defendants by Certified Mail, Return Receipt Requested to:

Aline Beatrice Mc Cloud
3120 Crawford St.
Houston, Texas 77004

Jack Sparks
Attorney General's Office
Austin, Texas

Raymond Jordan
2521 Riverside Dr.
Houston, Texas 77004

Olney Wallis
515 Rusk Avenue
Houston, Texas 77002

Joe Moss
Assistant District Attorney
301 San Jacinto
Houston, Texas 77002

William Key Wilde
1808 First City Natl. Bank Bldg.
Houston, Texas 77002

Robert Hall
609 Fannin St.
Houston, Texas 77002

The Antioch Bapt. Church
c/o F. N. Williams
3761 Parkwood
Houston, Texas 77021

Two Unknown Deputy Sheriffs &
Mr. Jack Heard, Sheriff
301 San Jacinto
Houston, Texas 77002

Barbara Jordan
U. S. Congresswoman
5303½ Lyons
Houston, Texas 77020

C. V. Buster Kern
County Courthouse
Houston, Texas

The 4th Mission Bapt. Church
c/o E. S. Branch
2710 Webster
Houston, Texas 77004

The Greater Zion Bapt. Church
c/o M. L. Price
3202 Trulley Street
Houston, Texas 77004

The Jerusalem Bapt. Church
c/o D. Everett
2201 Tuam
Houston, Texas 77004

The Wheeler Avenue Bapt. Church
c/o Wm. Lawson
3418 S. MacGregor
Houston, Texas 77021

Mrs. Maud Sanders
2911 Cline Street
Houston, Texas 77020

The NAACP & C. Anderson Davis
2314 Wheeler
Houston, Texas 77004

The Bapt. Ministers Assoc.
c/o N. S. Brown
2802 Elgin
Houston, Texas 77004

David Mc Lure
4002 Leeshire Street
Houston, Texas 77025

Hugh M. Ray

HUGH M. RAY